

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MARK J. PATNOD,
Petitioner,

v.

DAVID NOLAN,
Respondent.

Civil Action No. 04-10865-GAO

**MOTION TO ENLARGE THE TIME
FOR FILING A RESPONSIVE PLEADING**

The respondent respectfully moves this Court to enlarge the time in which to file an answer or other responsive pleading to the above-captioned petition for writ of habeas corpus to February 3, 2006.

As grounds therefor, the respondent's attorney states:

1. Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts requires the respondent to answer each allegation of the complaint and state whether the petitioner has exhausted state remedies including post-conviction actions. The Rule also requires that the respondent indicate what transcripts or parts of state court proceedings are available.

2. To this end, the respondent's attorney has requested the record of the petitioner's state court proceedings from the Worcester County District Attorney's office. The district attorney's office must locate the files, duplicate the records, including trial transcripts, and transmit a copy to the Attorney General's Office (AGO). These are time-consuming tasks which District Attorney staffers must fit into their regular pressing duties. Additional time is needed to review all the documents and transcripts when they arrive, to research

relevant issues and to draft an appropriate response to the petition.

3. In addition, the respondent's attorney is responsible for numerous post-conviction cases including more than forty federal habeas corpus petitions as well as direct criminal appeals, new trial motions, civil rights litigation and parole and probation matters. In the next several weeks the respondent's attorney must research and draft comprehensive memoranda of law on the merits in two habeas corpus petitions and file answers and supplemental answers in three newly assigned petitions. Also the respondent's attorney will be on a long planned family vacation out of state for the holidays.

WHEREFOR, the respondent respectfully moves this Court to enlarge the time for filing an answer or other responsive pleading in the above-captioned petition to February 3, 2006.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL
/s/ Annette C. Benedetto
Annette C. Benedetto
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-2200
BBO No. 037060

CERTIFICATE OF CONSULTATION

I, Annette C. Benedetto, Assistant Attorney General, hereby certify that I spoke with petitioner's counsel, Eileen Hagerty, on December 12, 2005, regarding the Motion to Enlarge and petitioner's counsel took no position on the motion. See Rule 7.1(A)(1) of the Local Rules of the United States District Court of the District of Massachusetts.

/s/ Annette C. Benedetto
Annette C. Benedetto
Assistant Attorney General
